



GOING OUT OF BUSINESS LICENSE APPLICATION

Applicant's/Owner's Name: _____

Business Name: _____

Business Address: _____

Phone #: _____ E-Mail _____

Name and Address of the individual or business retained to assist in conduct of sale:

Type of Sale: _____

Location of Sale: _____

Nature of Occupancy: **Rent** **Own** Date of Sale _____ to _____

(Circle One)

Means of Publication of Said Sale _____
(Attach a copy of the proposed language to be contained in any advertisement.)

FEE SCHEDULE

License (45-day period)	\$10.00
Renewal (15-day period)	\$10.00

I hereby declare that the inventory on hand (attach copy noting count and wholesale value) at the commencement of the sale will not be supplemented by additional purchases or acquisitions of any type except as hereinafter provided.

Date _____ Signature _____

Application must be submitted 3 weeks prior to commencement of sale.

(For Office Use Only)

License Number _____ License Expiration _____

License Renewal: From _____ to _____



MOORHEAD CITY CODE

Title 2. BUSINESS AND LICENSE REGULATIONS

Chapter 5. RETAILERS

Article E. GOING OUT OF BUSINESS SALES

2-5E-1: DEFINITIONS:

The following words and terms, as used in this article, shall have the meanings stated as follows:

LICENSE: A license issued pursuant to this article.

LICENSEE: Any person to whom a license has been issued pursuant to this article.

PUBLISH: "Publishing", "advertisements", "advertising" shall include any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, newspaper advertisement, magazine advertisement, handbill, circular, pamphlet, written notice, printed notice, printed display, billboard display, poster, radio announcement, radio program, recording and any and all means including oral, written or printed.

SALE: The sale or an offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised either specifically or in substance to be a "fire sale", "smoke and water damage sale", "adjustment sale", "creditor's sale", "trustee's sale", "bankrupt sale", "save us from bankruptcy sale", "insolvent sale", "insurance salvage sale", "mortgage sale", "assignee's sale", "adjuster's sale", "loss of lease sale", "receiver's sale", "forced out of business sale", "going out of business sale", "removal sale", and any and all sales in such manner as to reasonably convey to the public that upon the disposal of the stock of goods on hand, the business will cease and be discontinued. (Ord. 804, 7-2-1984)

2-5E-2: LICENSE REQUIREMENTS:

A. License Required: It is unlawful for any person to conduct a "sale" as defined in this article, or to publish any notice regarding such sale, without first obtaining a license therefor from the city. (Ord. 804, 7-2-1984)

B. License Fees: As established by the city's fee schedule. (Ord. 2007-30, 1-7-2008, eff. retroactive to 1-1-2008)

C. Application For License: An application for a license shall be made to the city clerk on forms provided by the city and shall contain such information as the city clerk shall determine to be necessary for the

issuance of a going out of business license, including a description of the place where the sale is to be held, the nature of the occupancy as owner or tenant, the effective date of the termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language to be contained in any advertisement therefor, and shall contain a statement that the inventory on hand at the commencement of the sale will not be supplemented by additional purchases or acquisitions of any type except as hereinafter provided, and the name and address of any person or business retained by the applicant for the purposes of assisting applicant in the conduct of the sale. (Ord. 804, 7-2-1984)

D. Investigation, Issue or Deny License: The City Clerk shall review the application and, if it is found to be in order, upon payment of the license fee may issue the license forthwith to the applicant. If the City Clerk declines to issue the license, the City Clerk shall forthwith notify the applicant of that decision and shall place the question of the issuance of the license on the agenda for consideration of the Council at its next regularly scheduled meeting. The applicant shall be notified of and have the right to appear at said Council meeting and be heard upon said application. The Council shall thereafter determine whether or not the applicant qualifies for the issuance of a going-out-of-business license. This procedure for denial of license specifically supersedes the denial provisions of Section [2-1-10B](#). (Ord. 93-6, 6-7-93)

E. Suspension of License: The Council may suspend or revoke any license to conduct a sale as defined in this Article in accordance with the provisions of Section [2-1-10B](#) of this Title. (Ord. 804, 7-2-84)

2-5E-3: BOND REQUIRED:

(Rep. by Ord. 93-6, 6-7-93)

2-5E-4: PERSONS EXEMPT:

The provisions of this Article shall not apply to or effect the following persons:

- A. Persons acting pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officers, such as sheriffs, bailiffs or marshals.
- C. Duly licensed auctioneers, selling at auction.
- D. Executors, guardians, assignees of insolvent debtors, bankrupts and/or other persons required by law to sell property. (Ord. 804, 7-2-84)

2-5E-5: CONDITIONS OF LICENSE:

A. Limitation on Articles to be Sold: During any sale licensed under the provisions of this Article, no additions whatsoever shall be made to the stock of merchandise on hand at the time of the issuance of the license, except that applicant is permitted to add new stock not to exceed ten percent

(10%) of the dollar value of the original inventory on hand at the time of the issuance of the license for the purposes of maintaining reasonably balanced selections at the sale. Such additions may be made only once and must be reported to the City Clerk before being offered for sale. Nothing shall be offered for sale or sold at any such sale which is in excess of the original inventory plus such provided additions.

B. Period of License, Auctions: A license shall cover a period not exceeding forty (45) days, except that upon satisfactory proof by the licensee that the inventory on hand at the time of the issuance of the license, plus additions allowed by this Article, has not been disposed of and upon proper application, the City Clerk shall renew such license for not more than fifteen (15) days to provide for a public auction of the balance of the merchandise being offered for sale. Such renewal application shall contain a sworn statement that the original inventory, plus additions, remain on hand.

C. Display of License, Inspection of Merchandise and Record: Upon commencement of any sale as herein defined, the license shall be prominently displayed near the main entrance of the premises on which the sale is being conducted. A duplicate original of the application shall, at any reasonable hour, be available to the City Clerk and the license shall permit the City Clerk or other authorized City personnel to examine all merchandise on the premises together with books and records of the licensee to determine that all provisions of this Article are being complied with.

D. Advertising: All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which the license was issued, and the wording of such advertisement shall not vary from the wording as indicated in the application. In addition, all such advertising shall contain a statement in these words "sale held pursuant to license issued by the City of Moorhead" giving also the license number and the date of issuance. (Ord. 804, 7-2-84)

2-5E-6: PENALTIES:

Any person violating the terms and conditions of this Article shall, upon conviction, be penalized in accordance with the provisions of Section [1-4-2](#) of this Code; however, nothing in the provisions herein shall prevent the City from obtaining proper injunctive relief from a court of competent jurisdiction to halt violations of this Article. (Ord. 804, 7-2-84)